



December 19, 2011

**Ex Parte**

Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Room TW-A325  
Washington, D.C. 20554

**Re: In the Matter of Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (“Cramming”), CG Docket No. 11-116; Consumer Information and Disclosure, CG Docket No. 09-158; Truth-in-Billing and Billing Format, CG Docket No. 98-170**

Dear Ms. Dortch:

This letter is to advise you, in accordance with Section 1.1206(b) of the Commission’s rules, that on December 16, 2011, John Breyault of the National Consumers League, Charles Acquard of the National Association of State Utility Consumer Advocates (NASUCA) and Linda Sherry of Consumer Action met with John Adams, Joel Gurin (by phone) and Kurt Schroeder of the Consumer and Governmental Affairs Bureau.

We discussed issues pertaining to the Commission’s above-captioned open proceeding on cramming. We expressed our organizations’ common position that the Commission should strengthen its proposed rules by prohibiting third-party billing on wireline telephone bills with certain exceptions and considering requiring consumer opt-in before third-party charges may be placed on wireless or VoIP telephone bills.

Additional discussion focused on how to differentiate between services related to the underlying common carrier telephone service and so-called “enhanced” services, how a consumer opt-in mechanism for wireless service could be achieved and how the Commission could exercise its legal authority to mandate such requirements. Consumer group representatives discussed the roles that states can play in combating cramming, specifically how public utility commission resources could be used to supplement the FCC’s complaint-handling processes and how states

can assist the Commission in monitoring complaints, tracking crammers and enforcing anti-cramming rules and regulations. Participants also discussed existing provisions that protect stronger state consumer-protection rules related to cramming, such as the Commission's Truth-in-Billing rules. Consumer group participants expressed a desire that California's anti-cramming rules be considered as a template for future FCC reporting requirements related to cramming. Consumer group participants also explicitly urged the Commission not to adopt anti-cramming rules that preempt state laws.

Participants discussed whether the Mobile Marketing Association's guidelines regarding customer opt-in<sup>1</sup> should be considered a model for a requirement that third-parties obtain a consumer's express consent before third-party billing may commence. In addition, participants discussed how billing by affiliates of telecommunications carriers, such as satellite television providers could be affected by stricter rules on third-party billing.

Finally, participants discussed the diverging comments in the record regarding the scope of the cramming problem. The consumer group attendees noted that the record clearly demonstrates significant consensus among non-industry commenters that the scope of cramming is significant and demands aggressive action by the Commission.

Sincerely,

A handwritten signature in dark ink, appearing to read "John Breyault". The signature is fluid and cursive, with the first name "John" and last name "Breyault" clearly distinguishable.

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<sup>1</sup> See Mobile Marketing Association, U.S. Consumer Best Practices, Version 6.1 (April 1, 2011), available at [http://mmaglobal.com/Consumer\\_Best%20Practices\\_6.1%20Update02May2011FINAL\\_MMA.pdf](http://mmaglobal.com/Consumer_Best%20Practices_6.1%20Update02May2011FINAL_MMA.pdf).